

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Art. 227) No.76 of 2017

Bajaj Allianz General Insurance Company Ltd., Through Branch Manager, Address Shivmohan Bhavan, Vidhan Sabha Road, Pandri, Raipur, Tah. & Distt. Raipur (C.G.) (As per Res. No.1 insurer of vehicle Trailer No.CG-07/CA-7017)

(Non-applicant No.3)

---- Petitioner

Versus

1. Chandrashekhar Sahu, S/o Jivrakhan Sahu, age 48 years, R/o Village Kharra, Tahsil Berla, Distt. Bemetara (C.G.) (Claimant)
(Applicant)

2. Lavkush Mishra, S/o Ramkhelawan Mishra, age 24 years, R/o Vill. Sahnai, Thana Sadar, Pratapgarh, (Uttar Pradesh) C/o Gurvindar Singh Movi, S/o Tirath Singh Movi, Telibandha, Molipara, Behind Radhakrishna Mandir, Raipur, Distt. Raipur (C.G.) (Driver of Trailer No.CG-07/CA-7017)

(Non-applicant No.1)

3. Gurvindar Singh Movi, S/o Tirath Singh Movi, 28 years, R/o Village Molipara, Behind Radhakrishna Mandir, Telibandha, Raipur, Distt. Raipur (C.G.) (Possession Owner of Trailer No.CG-07/CA-7017)

(Non-applicant No.2)

---- Respondents

For Petitioner: Mr. Bhaskar Payashi, Advocate.

For Respondent No.3: Mr. P.P. Sahu and Mr. Raj Kumar Pali,
Advocates.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

07/04/2017

1. The petitioner is an Insurance Company whose application for amendment has been rejected by the Claims Tribunal by the impugned order against which this writ petition under Article 227 of the Constitution of India has been preferred.

2. Learned counsel for the petitioner / Insurance Company submits that the accident occurred on 6-5-2015, whereas the vehicle in question was insured from 1-4-2014 to 31-3-2015, therefore, on the date of accident, the vehicle was not insured. This fact was sought to be investigated and the same was found to be true, and the said fact was permitted to be introduced in the written statement as the said relevant facts goes into the route of the matter.
3. On the other hand, learned counsel for respondent No.3 / owner of the vehicle, opposed the argument.
4. Since the plea raised by the Insurance Company is non-insurance of the vehicle on the date of accident that on 6-5-2015, the vehicle was not insured and the insurance was from 1-4-2014 to 31-3-2015, I deem it expedient to set aside the order impugned subject to payment of cost of Rs.5,000/- to the respondent / claimant within 15 days from the date of appearance before the Claims Tribunal and thereby allow the said application for amendment.
5. The writ petition is disposed of finally with the aforesaid observation and direction. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge